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**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2005 64171

SUNNY BUSTOS  
2917 W. Taylor Avenue  
Visalia, California 93291

**A C C U S A T I O N**

License No. No. PT 28941

Respondent.

Complainant alleges:

**PARTIES**

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, State of California.

2. On or about December 3, 2003, the Physical Therapy Board of California issued License Number PT 28941 to Sunny Bustos (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2007, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Physical Therapy Board of

1 California (Physical Therapy Board) for the Department of Consumer Affairs, State of  
2 California, under the authority of the following laws. All section references are to the Business  
3 and Professions Code unless otherwise indicated.

4 4. Section 2609 of the Code states:

5 “The board shall issue, suspend, and revoke licenses and approvals to practice  
6 physical therapy as provided in this chapter.”

7 5. Section 2660 of the Code states in pertinent part as follows:

8 “The board may, after the conduct of appropriate proceedings under the  
9 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose  
10 probationary conditions upon any license, certificate, or approval issued under this chapter for  
11 unprofessional conduct that includes, but is not limited to, one or any combination of the  
12 following causes:

13 \*\*\*

14 “(d) Conviction of a crime which substantially relates to the qualifications,  
15 functions, or duties of a physical therapist or physical therapy assistant. The  
16 record of conviction or a certified copy thereof shall be conclusive evidence of  
17 that conviction.

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19 “(l) The commission of any fraudulent, dishonest, or corrupt act which is  
20 substantially related to the qualifications, functions, or duties of a physical  
21 therapist or physical therapy assistant.”

22 6. Section 2661.5 of the Code states in pertinent part as follows:

23 “(a) In any order issued in resolution of a disciplinary proceeding before  
24 the board, the board may request the administrative law judge to direct any  
25 licensee found guilty of unprofessional conduct to pay to the board a sum not to  
26 exceed the actual and reasonable costs of the investigation and prosecution of the  
27 case.”

28 7. Section 2661 of the Code states:

1 “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
2 made to a charge of a felony or of any offense which substantially relates to the  
3 qualifications, functions, or duties of a physical therapist is deemed to be a  
4 conviction within the meaning of this article. The board may order the license  
5 suspended or revoked, or may decline to issue a license, when the time for appeal  
6 has elapsed, or the judgement of conviction has been affirmed on appeal or when  
7 an order granting probation is made suspending the imposition of sentence,  
8 irrespective of a subsequent order under Section 1203.4 of the Penal Code  
9 allowing that person to withdraw his or her plea of guilty and to enter a plea of not  
10 guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
11 information, or indictment.”

12 8. California Code of Regulations, title 16, section 1399.20, states:

13 “For the purposes of denial, suspension or revocation of a license,  
14 pursuant to Division 1.5 (commencing with Section 475) of the  
15 code, a crime or act shall be considered to be substantially related  
16 to the qualifications, functions or duties of a person holding a  
17 license under the Physical Therapy Practice Act if to a substantial  
18 degree it evidences present or potential unfitness of a person to  
19 perform the functions authorized by the license or approval in a  
20 manner consistent with the public health, safety or welfare. Such  
21 crimes or acts shall include but not be limited to the following:

22 \*\*\*

23 “(b) Conviction of a crime involving fiscal dishonesty arising out  
24 of or in connection with the practice of physical therapy.”

25 9. Section 810 of the Code states in pertinent part as follows:

26 “(a) It shall constitute unprofessional conduct and grounds for disciplinary action,  
27 including suspension or revocation of a license or certificate, for a health care  
28 professional to do any of the following in connection with his or her professional

activities:

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“(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.”

**FIRST CAUSE FOR DISCIPLINE**

(Conviction of a Substantially Related Crime)

[Bus. & Prof. Code, §§ 2660(d), 2661; Cal. Code. Regs, tit. 16, § 1399.20]

10. Respondent is subject to disciplinary action under section 2660, subdivision (d), and California Code of Regulations, title 16, section 1399.20 in that, on or about July 13, 2004, in a criminal proceeding entitled *People of the State of New York v. Sunny Bustos* in Supreme Court of the State of New York, Queens County, case numbers 02674-2003 and 02675-2003, Respondent was convicted by plea of two counts of fifth degree insurance fraud and two counts of second degree falsifying business records, misdemeanors and crimes related to the qualifications, functions and duties of a physical therapist. (See NY Penal Law, §§ 175.05, 176.10.) The circumstances are as follows:

11. Between November 8, 2001, and November 8, 2002, Respondent, while working as physical therapist at Lane Medical, prepared statements to Response Insurance in support of claims for payment knowing them to contain materially false information, i.e., claims for treatment not rendered.

12. Respondent’s conduct and subsequent convictions are substantially related to the qualifications, functions, or duties of a physical therapist.

**SECOND CAUSE FOR DISCIPLINE**

(Commission of Substantially Related Fraudulent Acts)

[Bus. & Prof. Code, § 2660(1)]

13. Respondent is subject to disciplinary action under section 2660, subdivision (l), in that he committed fraudulent acts which are substantially related to the qualifications, functions, or duties of a physical therapist. The circumstances are as follows:

14. Complainant re-alleges paragraph 11, above, as if fully set forth at this point.

1                   15.     Respondent's conduct constitutes fraudulent acts that are substantially  
2 related to the qualifications, functions, or duties of a physical therapist.

3                                   **THIRD CAUSE FOR DISCIPLINE**

4   (Unprofessional Conduct)

5   [Bus. & Prof. Code, §§ 810, 2660]

6                   16.     Respondent is subject to disciplinary action under sections 810 and 2660  
7 in that he knowingly prepared a writing for the presentation or use in support of a false or  
8 fraudulent claim. The circumstances are as follows:

9                   17.     Complainant re-alleges paragraph 11, above, as if fully set forth at this  
10 point.

11                   18.     Respondent's conduct constitutes unprofessional conduct in that he  
12 knowingly prepared a writing for the presentation or use in support of a false or fraudulent claim.

13                                   **PRAYER**

14                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
15 alleged, and that following the hearing, the Physical Therapy Board of California issue a  
16 decision:

17                   1.     Revoking or suspending License No. Number PT 28941, issued to Sunny  
18 Bustos;

19                   2.     Ordering Sunny Bustos to pay the Physical Therapy Board of California  
20 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
21 Professions Code section 2661.5;

22                   3.     Taking such other and further action as deemed necessary and proper.

23 DATED: October 24, 2006

24                                   Original Signed By:

25 STEVEN K. HARTZELL

26 Executive Officer

27 Physical Therapy Board of California

28 California Department of Consumer Affairs

State of California

Complainant